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SUPERIOR COURT
YAVAPAI COUNTY, ARIZONA

2009 JAN -7 AM 10:48

JEANKE HICKS, CLERK

BY: Heather Figueroa

IN THE SUPERIOR COURT OF STATE OF ARIZONA

IN AND FOR THE COUNTY OF YAVAPAI

STATE OF ARIZONA,

Plaintiff,

v.

STEVEN CARROLL DeMOCKER,

Defendant.

CR 2008-1339

Division 6

MOTION FOR HEARING AND RULING
ON PUBLIC RECORDS REQUEST AND
REQUEST FOR *IN CAMERA* REVIEW
OF THE DOCUMENTS

The State of Arizona, by and through Sheila Sullivan Polk, Yavapai County Attorney, and her deputy undersigned, hereby move this Court for an *in camera* review of certain photographs of the crime scene, autopsy and skull reconstruction to determine whether they are subject to release pursuant to the Arizona Public Records Law. The State has received two requests for all records associated with this case from major media sources and anticipates many more in the days ahead. It is the State's position that public release of many of the photographs and documents will violate the victims' rights as guaranteed by the Arizona Constitution.

"Paragraphs one through nine of the VBR not only create rights, but create rights unique and peculiar to crime victims." *State ex rel. Napolitano v. Brown*, 194 Ariz. 340, 343, 982 P.2d 815, 818 (1999). The portions of the Victims' Bill of Rights at issue here, Ariz. Const. Art. II, §§ 2.1(A)(1) and (12)(C), provide:

1 (A) To preserve and protect victims' rights to justice and due process, a victim
2 of crime has a right:

3 ...

4 (1) To be treated with fairness, respect, and dignity, and to be
5 free from intimidation, harassment, or abuse, throughout the
6 criminal justice process.

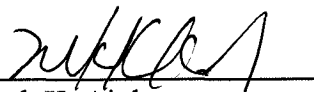
7 (12)(C) "Victim" means a person against whom the criminal
8 offense has been committed or, if the person is killed or
9 incapacitated, the person's spouse, parent, child or other lawful
10 representative ...

11 Many photographs contain graphic and sometimes gruesome depictions of the
12 procedures followed during the autopsy and reconstruction processes. Public release of these
13 items will violate the victims' right to be treated with respect and dignity and may result in
14 additional trauma and emotional injury to Ms. Kennedy's family, specifically Carol's elderly
15 mother and her daughters. Additionally, a review of case law on this issue suggests that
16 Defendant has a right to object and be heard prior to public disclosure.

17 Accordingly, the State respectfully requests that the assigned court set an expedited
18 hearing on the public records request.

19 Respectfully submitted this 6 day of January, 2009.

20 SHEILA SULLIVAN POLK
21 YAVAPAI COUNTY ATTORNEY

22 By 
23 Mark K. Ainley
24 Deputy County Attorney

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1 Copy of the foregoing delivered/mailed
this 6 day January, 2009 to:

2
3 Honorable Thomas B. Lindberg
4 Division 6
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